

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**KOTY HOLMES, #1463248**

§

**VS.**

§

**CIVIL ACTION NO. 6:20cv333**

**LORIE DAVIS, ET AL.**

§

**ORDER ADOPTING REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

This action was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636. On March 30, 2021, the Magistrate Judge issued a Report and Recommendation (Docket No. 27), recommending that Plaintiff's claims for money damages against Defendants in their official capacities pursuant to 42 U.S.C. § 1983 be dismissed without prejudice and recommending that the remainder of Plaintiff's claims against Defendants in their official and individual capacities be dismissed with prejudice pursuant to 28 U.S.C. § 1915A(b)(1).

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, Plaintiff did not file objections in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews her legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert.*

*denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").


Having reviewed the Magistrate Judge's Report and Recommendation, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. The Court therefore adopts the Report and Recommendation of the United States Magistrate Judge (Docket No. 27) as the findings of this Court.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report (Docket No. 27) is **ADOPTED**. It is further

**ORDERED** that Plaintiff's claims for money damages against Defendants in their official capacities pursuant to 42 U.S.C. § 1983 are **DISMISSED WITHOUT PREJUDICE**. It is further

**ORDERED** that the remainder of Plaintiff's suit is **DISMISSED WITH PREJUDICE** pursuant to 28 U.S.C. § 1915A(b)(1).

So **ORDERED** and **SIGNED** this **26th** day of **May, 2021**.

  
JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE